Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of Developing a Unified Intercarrier Compensation Regime	CC Docket No. 01-92

REPLY COMMENTS OF THE CORPORATION COMMISSION OF THE STATE OF KANSAS

IN RESPONSE TO THE FURTHER NOTICE OF PORPOSED RULEMAKING

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I. Introduction

The National Association of Regulatory Utility Commissions (NAURC) strongly supports the FCC's efforts to revise intercarrier compensation. The Kansas Corporation Commission (KCC) Staff has participated on NARUC's Intercarrier Compensation Committee (ICC). The KCC would like to take this opportunity to file its reply comments in support of NARUC's Intercarrier Compensation Proposal, Version 7[1] (the Plan or the NARUC Plan). The KCC would also like to highlight some of the advantages proposed in the Plan and to address some concerns with the State Allocation Mechanism proposed by NARUC.

II. Advantages to NARUC's Version 7 Proposal

A. General Advantages

The NARUC Plan has many advantages:

- It reduces access rates.
- It unifies the intrastate and interstate access rates.
- It allows intrastate access rates to mirror interstate access rates without FCC preemption of state authority. This avoids numerous

[1] NARUC's Intercarrier Compensation Proposal, Version 7, filed as Appendix C in Comments with the FCC on May 18, 2005.

contentious legal issues as discussed in the Comments of Maine and Vermont[2] as well as several other parties.

- It retains higher access rates in rural areas as the Plan provides for a termination rates of $.02 for wire centers with less than 500 lines, $.005 for wire centers with 500 to 5000 lines, and $.001 for wire centers with more than 5,000 lines.[3] This provides a better match between costs and rates, and reduces the USF impact.

B. Rebalancing of Intrastate Access Charges

NARUC's ICC task force dealt with the problem that some states have not rebalanced intrastate access rates and others have. The problem presents a fairness issue as to who will pay so that intrastate access rates can be reduced in those states that have not yet rebalanced. Customers in states that have rebalanced, such as Kansas, have already paid for such reductions through retail rate increases and/or state USF funds. Thus, these states are interested in minimizing any additional impact on their consumers to fund the reductions for states that could not or would not address access rate reduction. Some early proposals included reductions in Federal USF receipts for companies with low retail rates. This put the monkey on the back of those companies to petition their state commission to allow local rate increases. Yet, some companies were concerned that the state commissions would not

[2] Comments on Notice of Proposed Rulemaking by the Maine Public Utilities Commission and the Vermont Public Service Board, dated May 23, 2005.
[3] NARUC Plan, p 4, ¶ I 3

authorize local rate increases to rebalance access charge reductions if they had not implemented rebalancing in the nine years since the enactment of the Telecommunications Act. Additionally, while some state commissions have been restricted from rate regulation for rural Local Exchange Companies (LECs), large LECs, or both, the LECs might have obtained this regulatory freedom by agreeing to a rate freeze, thus revenue recovery would still be in doubt. While only a partial solution, NARUC's proposal is ingenious in a number of ways. First of all it is simple. For local service rates that are low (where the basic local rate plus SLC is less than $18.50 to start)[4] the SLC increase will be $2.00 per rebalancing event rather than $1.00.[5] In other words, if the residential rate is $6 and the SLC is $6.50 for a total of $12.50, then the SLC will go up an extra $1.00 for each of the four rate rebalancing events. This probably will not fully recover the amount of intrastate access reduction, but will be a major step in the right direction. This approach has the following benefits:

- It does not penalize the LEC that has low rates by withholding USF funding.
- It will not trap LECs that have agreed to a rate freeze with a revenue shortfall.
- It will not generate a series of rate applications at state commissions by companies seeking rate relief.

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[4] Id., pp 8-9, ¶¶ II 5 a iii and iv.

[5] Higher local service rates, those above $18.50, would perhaps be an indication that the state has already addressed access reductions.

- It recovers some of the reduced access rates from end users thereby reducing the impact on the Federal USF.
- By limiting the increase to $2.00 per line, this approach avoids rate shock for the end users who have been paying extraordinarily low local rates.
- It increases the monthly flat rates for customers, thereby adding an element of equity that customers benefiting from the USF support are also paying a fair share of the cost. This equity is owed to those customers who are paying USF assessments and also paying higher local rates, especially those whose local service receives no USF support.
- It protects other states from footing the entire cost of reducing intrastate rates in those states where access rate reductions and rate rebalancing have not occurred.

C. Freedoms Within the NARUC Plan

The NARUC Plan offers a number of options for carriers and state commissions which will allow market forces and public interest issues to be addressed in an efficient manner. Some of the freedoms provided are:

- The Plan provides for default rates and arrangements, but carriers are free to negotiate other interconnection agreements which better reflect their interests and the nature of their traffic.[6]
- The Plan provides for rebalancing access reductions to the SLC rates for the ILECs.[7] Some ILECs are facing stiff competition, and are concerned that the market conditions will not allow them to make increases in this manner. ILECs have the freedom to decide not to implement the increases. Although not normally used, ILECs also have some flexibility in setting the SLC rates by state and by UNE zone within the state. If a company chooses not to raise its SLC to the degree allowed,[8] the Plan treats this as a company choice and does not allow the amount to be recovered from USF support.
- The Plan provides for ILECs that do not reach agreements and do not want to adopt the default rates to petition state commissions to arbitrate intercarrier compensation rates.[9]
- The Plan addresses VOIP service only to the extent that it makes use of the public switched network.[10] Thus access charges do not apply to VOIP traffic that remains on the internet from beginning to end.

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[6] Id., p 2, first paragraph.
[7] Id., p 8, ¶ II 5 a
[8] The degree allowed means either the SLC cap or the amount necessary to recover the access reduction.
[9] NARUC Plan, p 4, ¶ I 4
[10] Id., p 7, ¶ I 12

- States that participate are allowed to adopt a state specific increment to the federal assessment rate.[11] This will allow state commissions to address unique needs within their states.
- State commissions will have the ability to opt out of the Plan.[12] This avoids a series of contentious legal issues. From a practical perspective state commissions should be attracted to the Plan since it resolves many difficult issues and moves intrastate rates in line with interconnection rates in the rest of the country. This will benefit them economically by continuing to attract CLECs, and encouraging new investment. Obviously, this provision also encourages the FCC to develop a final plan that will encourage state participation and joint cooperation.

III. Additions and Concerns

A. USF Assessment on SLC Increase

The NARUC Plan as well as several other proposals calls for increases in SLC rates. The SLC has been classified as an interstate charge, and has been used to recover the interstate revenue requirement. In this instance, the FCC is trying to develop a plan that will address both interstate and intrastate access rates. Thus, it is likely that the increase in the SLC rate will actually be a multi-jurisdictional charge since it will increase to recover

[11] Id., p12, ¶ II 12
[12] Id., p12, ¶¶ IV 1-4

both state and interstate access reductions. Consequently, the KCC recommends the FCC explicitly recognize its multi-jurisdictional nature and allow revenues derived from it to be assessed for both state and interstate USF programs. This multi-jurisdictional charge can be accommodated within the carrier's billing system by separately identifying the increase in SLC from the existing SLC charge. This does not mean that it should appear as a separate item on the customer's bill since customers already complain about the confusing information on the bill. States with universal service funds, like the Kansas Universal Service Fund, should be able to assess the additional SLC revenues imposed by the NARUC Plan since they include a replacement

for intrastate revenue as well as interstate.

B. The State Allocation Mechanism (SAM)

The NARUC Plan proposes the FCC give block grants to the state for USF support.[13] In turn the state commissions would allocate support among the companies within the state. On the surface this appears to give states more say in the process. However, it could potentially create a triangular relationship where inadequate funding will lead to finger pointing among the federal government, state commissions and the companies. Before adopting a process like SAM, the FCC should determine the principles for allocation so that states can implement that process to achieve greater confidence that

[13] Id., pp 11-13, ¶¶ II 7-9

support is targeted appropriately. The SAM should not be adopted in this proceeding for the following reasons:

- This issue does not need to be decided in this docket. It should be considered in a more comprehensive manner after receiving recommendations from the Joint Board on Universal Service, and after obtaining input from the industry.
- The Telecommunications Act requires sufficiency of support that is applicable to the entire country. Introducing 50 interpretations of that process could lead to unfair and inequitable treatment for ETCs that operate in separate states or one ETC that operates in several states.
- States would have to hold a proceeding to address the allocation process. The cost to the industry to participate in 50 proceedings would be unnecessary and wasteful.
- Even if USAC administers the program and states only provide directives for disbursement of funds, there will still be an increase in administrative cost. USAC will have to follow 50 different sets of rules for distributing funds. While probably not costing 50 times more to administer, the program will likely cost substantially more to administer as each state develops its own allocation process.
- Part of the idea of this proposal is to have states review costs and better target the support to where it is needed. However, several states no longer have the authority to review costs or hold rate case

proceedings. While it is uncertain whether the restriction would extend to cost reviews for the purpose of determining USF allocations, it is safest to assume that it would. The FCC has the authority to review costs, decide USF rules, and insist upon compliance. Because the FCC has full authority it should exercise it in administering the USF program.

As the FCC is aware, there are some problems with the present USF system, both with the manner in which support is determined and the manner in which the assessment is made. Though related, these issues are far too complex to be resolved in the Intercarrier Compensation docket. One of the purposes of SAM is to ferret out LECs that are not reporting costs accurately and receive too much USF. Instead, the KCC suggests that the FCC is already in a good position to direct USAC to hold LECs and their cost consultants accountable to follow appropriate Separations procedures, and to report costs accurately. In conclusion, the KCC believes that SAM is not ripe for decision in this docket and that the FCC is currently in a good position to address problems with USF support.

IV. Conclusion and Recommendation

The KCC recommends that the FCC strongly consider the tenets of the NARUC Plan, and give special attention to retaining the many advantages and the freedoms built into the Plan, and adopting the mechanism to address increases in the SLC. The KCC also recommends that the NARUC Plan be augmented by allowing states with USF programs the ability to assess the increase in SLC charges. Finally, the KCC recommends that the FCC not incorporate the SAM proposal in this docket. The KCC encourages the FCC to use its authority to increase the accuracy of LEC cost reporting for USF purposes.

Respectfully Submitted,

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